

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on October 14, 2010, which has been reviewed and carefully considered. By means of the present amendment, independent claims 1 and 22 have been amended for better clarity as well as to include certain features of claim 24. Accordingly, no new issues requiring a new search have been introduced and entry of the present amendment is respectfully requested.

Claims 1-2, 4-16 and 19-26 are pending in the application, where claims 1 and 22 are independent.

In the Final Office Action, claims 1-2, 4-8, 11-12, 14-16, 19-23 and 25-26 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 6,289,796 (Fung). Further, claims 9 and 24 are rejected under 35 U.S.C. §103(a) over Fung in view of U.S. Patent No. 6,792,980 (Cortese). Claim 10 is rejected under 35 U.S.C. §103(a) over Fung in view of U.S. Patent No. 5,862,740 (Gross). Claim 13 is rejected under 35 U.S.C. §103(a) over Fung in view of U.S. Patent No. 5,473,972 (Rizzuto). Applicants respectfully traverse and submit that claims 1-2, 4-16 and 19-26 are patentable over Fung, Cortese, Gross and Rizzuto for at least the following reasons.

Fung is directed to a hot milk dispenser that supplies either frothed milk or non-frothed milk based on the position of a knob 14 that selects either a first nozzle 17 for providing frothed milk (FIG 3), or a second nozzle 18 for providing non-frothed milk (FIG 4).

The Fung hot milk dispenser is a unitary device where no parts appear to be detachably connected to the dispenser. Even if some parts are detachably connected to the dispenser, there is still no disclosure or suggestion of a cartridge that includes the following items: (1) a reservoir, (2) a liquid transport channel, (3) means for transporting, and (4) liquid outlet, where such a cartridge that includes these four elements is detachably connected to the dispenser. Further, Fung shows in FIGs 1 and 3-4 a milk reservoir 10 which is not sealed in a sealed foil.

In the Final Office Action, page 3, lines 1-2 and page 8, last three lines of the first paragraph, it is alleged that the disclosure on column 1, lines 7-10 of Fung of "a dispenser for use with and often incorporated in a coffee maker," means that the "dispenser is detachable unit or cartridge." (Final Office Action, page 8, next to the last line of the first paragraph; emphasis added) This allegation is respectfully traversed.

In particular, as is clear from FIGs 1 and 3-4 of Fung, the milk reservoir 10 is indeed "incorporated in a coffee maker," which more commonly means that the milk reservoir 10 is part of, integrated with, the coffee maker, as confirmed by FIGs 1 and 3-4 of Fung. For example, the left side wall of the milk reservoir 10 shown in FIGs 1 and 3-4 is also the wall of the Fung hot milk dispenser, as this very same wall (of the milk reservoir 10) is one continuous element that not only forms the wall of the Fung milk reservoir 10, but also forms other parts of the Fung hot milk dispenser where this wall extends down beyond the Fung milk reservoir 10, and to the right forming the bottom of the Fung milk reservoir 10. That is, the Fung milk reservoir 10 is an integral part of the Fung hot milk dispenser and is

NOT detachably connected thereto.

Cortese is directed to a method and device for piercing a sealed capsule on a coffee machine. The Cortese sealed capsule includes ground coffee and does not include any liquid.

It is respectfully submitted that Fung, Cortese, and combination thereof, do not disclose or suggest the present invention as recited in independent claim 1, and similarly recited in independent claim 22 which, amongst other patentable elements, recites (illustrative emphasis provided):

a reservoir that sealably holds a liquid in a sealed foil;
a cartridge in which the reservoir, the liquid transport channel, the means for transporting, and the liquid outlet are provided, wherein the cartridge is detachably connected to the device beverage-making appliance.

As discussed above, the Fung milk reservoir 10 is an integral part of the Fung hot milk dispenser and is NOT detachably connected thereto. That is, Fung does even disclose or suggest a cartridge which is detachably connected to the device beverage-making appliance, where this cartridge includes the four elements noted above, namely, (1) a reservoir, (2) a liquid transport channel, (3) means for transporting, and (4) liquid outlet.

Even if, assuming arguendo, that somehow Fung discloses that the Fung milk reservoir 10 is somehow detachably connected to the Fung hot milk dispenser, there is still no disclosure or suggestion in Fung of any "reservoir that sealably holds a liquid in a sealed foil." Further, Cortese only discloses sealed capsule includes ground coffee and

does not include any liquid. Thus, at best, the combination of Fung and Cortese discloses a liquid reservoir without the liquid being in any in a sealed foil, and a sealed capsule that includes ground coffee. Gross and Rizzuto are cited to allegedly show other features and do not remedy the deficiencies in Fung.

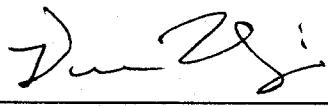
Accordingly, it is respectfully requested that independent claims 1 and 22 be allowed. In addition, it is respectfully submitted that claims 2, 4-16, 19-21 and 23-26 should also be allowed at least based on their dependence from independent claims 1 and 22, as well as their individually patentable elements. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

For example, Fung does not even disclose or suggest a "reservoir that sealably holds a liquid" let alone disclosing or suggesting that "the reservoir is unsealed in response to providing the device in beverage-making appliance," as recited in claims 19 and 23.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Applicant(s)
December 9, 2010

THORNE & HALAJIAN, LLP
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101